

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

WILLIAM M. HALLEY,)	CV 04-202-M-LBE
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
KIRSTEN H. LACROIX,)	
)	
Defendant.)	
_____)	

Plaintiff Halley has filed a Complaint alleging violations of his constitutional rights by Defendant LaCroix. Plaintiff alleges that he was maliciously prosecuted by Defendant LaCroix and that she violated his right to equal protection under the law by refusing to charge Plaintiff's ex-wife with kidnaping and parental interference.

United States Magistrate Judge Leif B. Erickson conducted preliminary screening of the Complaint as required by 28 U.S.C. §§ 1915(e)(2) and 1915A. Under that statute, the court engages in a preliminary screening to assess the merits of the claims and

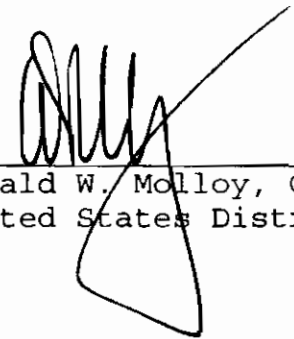
identify cognizable claims, or dismiss the complaint or any portion thereof if the complaint is frivolous, malicious, or fails to state a claim upon which relief can be granted. 28 U.S.C. § 1915(e)(2). Judge Erickson issued Findings and Recommendations in which he recommends dismissal of the Plaintiff's Complaint because Defendant LaCroix has prosecutorial immunity for any violations of federal constitutional rights she commits while performing activities "intimately associated with the judicial phase of the criminal process." Imbler v. Pachtman, 424 U.S. 409, 430-431 (1976).

Plaintiff did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

I find no clear error with Judge Erickson's Findings and Recommendation (dkt #5) and therefore adopt it in full.

Accordingly, IT IS HEREBY ORDERED that the Complaint is DISMISSED.

DATED this ^{23rd} day of May, 2006.


Donald W. Molloy, Chief Judge
United States District Court